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14
15 UNITED STATES DISTRICT COURT
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17 NORTHERN DISTRICT OF CALIFORNIA
18
19 OAKLAND DIVISION
20

21 LAURI VALJAKKA,
22
23 Plaintiff,
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25 v.
26
27 NETFLIX, INC.,
28
29 Defendant.

Case No. 4:22-cv-01490-JST

**DEFENDANT NETFLIX, INC.'S
OPPOSITION TO PLAINTIFF'S
MOTION FOR LEAVE TO
SUPPLEMENT SUMMARY JUDGMENT
RECORD**

Date: February 15, 2024
Time: 2:00 pm
Judge: Honorable Jon S. Tigar

1 Defendant Netflix, Inc. (“Netflix”) respectfully requests that the Court deny Plaintiff Lauri
2 Valjakka (“Valjakka”)’s December 4, 2023 Motion for Leave to Supplement the Summary
3 Judgment Record (“Mot. to Supp.”) because it provides no basis for relief, is unclear about his
4 request, and is procedurally improper.

5 As an initial matter, Valjakka’s filing inconsistently refers to Federal Rules 56(d), 56(e),
6 59(d), and 59(e) and fails to identify any local rule that would be an appropriate vehicle for this
7 request or can provide the relief apparently sought. *See* Mot. to Supp. at Caption (motion under
8 56(d) and (e)); 2 ¶1 (motion under 56(d) and (e)); 2 ¶2 (motion under 59(e)); 2 ¶3 (Rule 59(e)); 5
9 ¶2 (Rule 59(d)). This procedurally chaotic request makes it difficult for Netflix to frame an
10 appropriate response. Indeed, Valjakka does not even define its own request. *See id.* at 1 ¶1 (“and
11 delay ruling on [*sic*].”).

12 Second, Valjakka argues that it should be permitted supplemental briefing because Netflix
13 did not raise the issue of comity, and therefore Valjakka “was not prepared to argue comity as
14 applied to the case cited by the Court.” *Id.* at 2 ¶3. But Netflix did raise comity in its Motion and
15 Reply. *See* MSJ §II.B.1, Reply §II.A.2. In fact, both parties cite *Akazawa v. Link New Tech. Int’l,*
16 *Inc.*, 520 F.3d 1354, 1356–58 (Fed. Cir. 2008), which relies on *International Nutrition*. *See*
17 Valjakka’s Opposition at 4; Reply at 4. To the extent Valjakka failed to address Netflix’s comity
18 arguments in briefing, it has waived any opportunity to do so.

19 Third, Valjakka appears to request (1) permission to supplement the record with
20 information that was available to Valjakka during summary judgment briefing, and/or (2) that the
21 Court delay ruling until after a Finnish Market Court case. *See* Mot. to Supp. at 5–6. To the extent
22 the Court considers these requests, Netflix requests leave to substantively respond by December
23 15, 2023, or another date to be determined by the Court.

1 Dated: December 5, 2023

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